

**Montgomery County Agricultural Advisory Committee
Meeting Minutes
October 19, 2021**

Attendees: Lori Larson, Doug Lechliden, Pete Driscoll, Aliza Silver, Jane Evans, Russ Allnutt, Eleanor Leak, Jordan Cissel, John Brewer

Guests: Ellen Gordon (board member of SCA)

Staff: Jeremy Criss, Greg Wims (new Upcounty Regional Director)

Agenda Items are in BOLD.

1. **Call the Meeting to Order-Introductions:** 7:05 pm
2. **Approval of the September 21, 2021, AAC meeting minutes.** Approved as written (Evans/Driscoll)
3. **Proposed Acquisition by County Parks of the Broad Run Creek Farm II LLC.**
Please see attached letter from the AAC Chair to the County Executive

Last week Caroline Taylor spoke on the phone with Mike Reilly from Montgomery County Parks. The property has the largest contiguous deciduous forest in the county. Parks, as a condemning authority, could purchase the property, but would have to get permission to terminate the existing easement. Parks has a contract with the current owners of the property saying they shall not cut down any trees, even though Parks has previously approved a forest stewardship and timber harvest plan to selectively cut down trees. Parks wants to turn the property into a passive park, where you can park your car and then walk the trails and take your dog, but not use the park for events. Caroline asked why Parks won't share the contract information with the county OAG. Parks doesn't wish to share the contract and conveyed that OAG should terminate the easement and turn the property over. Parks plans to take a portion of the property for their park and the remaining 63 acres would be retained by the current owners. The property has 6 TDRs retained.

Parks is unlikely to meet the legal public purpose test as a condemning authority, due to the 63 acres that will be retained by the current owners. Mike Reilly told Caroline Taylor that they won't attempt the condemning authority approach.

Caroline believes the property would be best left in the easement program. She won't support the Parks' proposal.

Dale Tibbitts, special assistant to the County Executive, had a conversation with Mike Reilly about the treatment of the 6 retained TDRs. Marc Elrich has said he is not in favor of building 6 houses; he is in favor of leaving one house on the property, even if it needs to be rebuilt. Elrich would support two TDRs remaining; one for the existing house and one for the remaining portion of the land. The other 4 would be created, serialized, severed, and conveyed to the county. The county already has an inventory

of public owned TDRs. The OAG hopes that the county will monetize them for farmland preservation future funding.

The county attorney has developed a term sheet that spells out the proposed treatment of the TDRs that are retained with the property.

Brenda Sandburg from Parks communicated with the OAG that the appraisal Parks got for the property was \$600,000, equal to \$100k per TDR. The OAG ordered three appraisals to demonstrate that they are neither consistent nor reliable for determining easement and agricultural values. The county originally paid \$1.954 million. One appraisal came up with \$1.8 million amount.

AAC sent a letter to the County Executive outlining our position since our last meeting.

4. Update on the Ag Land Preservation CIP and meetings with the CE.

There are more people coming to OAG for farmland preservation funding. Unfortunately, the OAG does not have sufficient funding on hand to accommodate these requests. The State Agricultural Transfer Tax is no longer sustainable. Fewer farms are being developed in the county, so OAG is looking for other ways to fund the program.

OAG applies for every opportunity for funding and learned that Montgomery County may receive another Rural Legacy Grant Award in the amount of \$2,722,761. This money will be used for the farms on both the east and west sides of the County that were included in our grant application.

The OAG remitted the FY 23-28 Ag Land Preservation CIP budget. OAG is requesting from the county \$2.5 million in FY23 and \$2.5 million in FY24 for a total of \$5 million as part of the two-year biannual CIP process. The OAG is proposing this new funding could be used to purchase farmland preservation easements on both large farms and smaller farmers less than 50 acres to achieve the goals of Racial Equity and Social Justice.

Jeremy is proposing a change on how OAG may purchase farmland preservation easements on smaller farms for Black Indigenous People of Color-BIPOC farmers that need access to land to grow table food.

5. Follow up on the October 19, 2021, meeting on Deer Management.

Jeremy met with the Montgomery County Delegation, DNR, and P&P, whose view it is that farmers are responsible for managing the deer on their farms. DNR owns all the deer and all the natural resources, which is why you must get a license from DNR to hunt them. The farmers believe that DNR does not manage the population of deer well. The only way to manage deer down-county is bowhunting. All DNR wants to do is regulate hunting, which primarily impacts the folks Up-County where hunting is permitted. Many

farmers don't want hunting and hunters on their property due to liability. OAG has a Deer Donation Program that pays for the deer that hunters bring to the cold box for processing and sending to the needy. This costs OAG \$25k/year. 100-200 deer are donated annually through this program. Jeremy will pull together a farmer forum about liability protections built into the state statute to see if we can raise the bar for the number of deer being harvested on private property. The farming community previously negotiated with the equestrian community an increase in Sunday hunting which has proven to be very effective to increase the number of deer being harvested.

6. Meeting with the Public Service Commission on October 20, 2021, Ag Reserve Solar.

First Energy is Potomac Edison, the largest service provider encompassing 70% of the AR zone. They supply energy for everything north of Germantown. Pepco serves everyone south of Germantown. BGE serves everyone on the East side of the AR zone along Georgia Avenue.

If you want to put a solar field on your farm, you must coordinate with your energy provider to get the hookup or inter connection agreement to the grid. Pepco is doing well with pending solar projects.

OAG has a meeting with the solar industry representatives on November 3 to find the soil classifications 3-8 in the AR zone for proper solar siting opportunities.

Potomac Edison has met its clean energy quota with the state of Maryland. So how can they, serving most of the AR, want to cooperate with farmers who want to install solar, as they have already met their quota-tariff? Potomac Edison has a waiting list of solar projects in the queue that would generate clean energy above the state mandate.

7. Update on the Sugarloaf Citizens Association-smaller deliveries of Leafgro.

Right now, the Dickerson facility only allows forty cubic yards of Leafgro to pick up Leafgro for any deliveries. The OAG found that smaller farms have difficulty accommodating that larger sized truck. OAG sent out a survey to sixty farms in June and received twenty responses. Ten farmers said they would like the ability to receive twenty cubic yards (dump truck size). OAG is hoping to make the schedule of smaller sized truck deliveries through MES if the recipient farm is working with OAG.

Leafgro is still not approved as an organic soil amendment by the USDA National Organics Program due to the colored blue ink in the bag.

8. River Road

County DOT began construction on the four-mile gravel section of River Rd. from Elmer School Rd. to Whites Ferry. Eight culvert pipes need to be replaced and some drainage ditches require corrections.

On May 28, DOT found that one of the twelve test holes that they bored had asbestos in it. That sample was bored closer to Elmer School Rd. Linda Lewis sent Jeremy six pictures of what the road looks like this evening; she described it as a “marshy, spongy, slick, racetrack.” The construction work along the road has compromised the roadbed and now the surface of River Road is very muddy.

DOT proposed to install a geo-fabric to encapsulate the legacy gravel from the Travilah Quarry. The county knew about the asbestos, as documented in articles from the 1970s in the Washington Post.

Linda will call Richard Dorsey from highway services to discuss the current state of the road including what the plans are moving forward as we go into the colder months of the year.

9. **The Department of Environmental Protection Legislative Proposals-**

There are no developments on the proposals below. They will come back up again.

Individual Water Supply and Sewage Disposal Systems-County residents that live in areas without public water and sewer were mailed the DEP post card to expand awareness to extend the life of their septic systems by pumping out their septic tanks. The proposed legislation has still not been introduced. The enforcement and penalties provision on lines 158-170 will be deleted entirely as stated by the DEP Director “We think we can make significant progress without that provision.”

Introduction of Bill 16-21-Environmental Sustainability-Building Energy Use Benchmarking and Performance Standards – Amendments to Chapter 18 Environmental Sustainability. There was a public hearing on July 20, 2021, and several agricultural organizations provided letters outlining that all existing and new agricultural buildings should be exempt from this Bill 16-21.
<https://www.montgomerycountymd.gov/COUNCIL/OnDemand/testimony/20210720/item5.html>

The Director of DEP provided OAG with a list of equestrian facilities in the County with buildings 25,000 square feet in size or larger to assess the energy being used for lighting, heating, and air conditioning, etc.

Electric Lawn Care – The DEP has now proposed a more limited bill that will prohibit the use and sale of gasoline leaf blowers. The broader Electric Lawn Care bill will be delayed.

10. **MD Farm Bureau and MCFB Farmside Chats:**

Ag Reserve Solar - Wednesday, October 6th at 9 AM - Rockhill Orchard

There was a good turnout of folks that attended and there are two follow up meeting that will be helpful to better understand how Solar in the Agricultural Reserve can work. October 20, 2021 meeting with representatives from the Public Service Commission and November 3, 2021 with representatives from the Solar companies.

11. Additional Items-Next Meeting November 16, 2021

The AAC discussed the possibility of resuming in-person meetings. We can't currently use the Up county Regional Center where we traditionally meet, as that space is being used for COVID-19 testing. When that ceases we will be able to use the building again. We hope to have a better idea of when that will become available in December of this year.

12. Adjournment. (Larson/Silver) 8:10 pm.